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BARRY COHEN, CHRIS COHEN (aka CHRISTENE COHEN), the F/V POINT LOMA and  
Claimant, F/V POINT LOMA Fishing Company, Inc.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DEL MAR SEAFOODS, INC.,  
Plaintiff,

v.

BARRY COHEN, CHRIS COHEN (aka  
CHRISTENE COHEN), *in personam* and,  
F/V POINT LOMA, Official Number  
515298, a 1968 steel-hulled, 126-gross ton,  
70.8 foot long fishing vessel, her engines,  
tackle, furniture apparel, etc., *in rem*, and  
Does 1-10,  
Defendants.

No. C-07-2952-WHA

**DECLARATION OF BARRY A.  
COHEN IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR LEAVE  
TO FILE MOTION FOR  
RECONSIDERATION OF ORDER  
VACATING ARREST; OPPOSITION  
TO EMERGENCY APPLICATION  
FOR STAY OF COURT'S ORDER  
VACATING THE ARREST OF THE  
VESSEL AND CLARIFICATION OF  
THE ORDER**

I, Barry A. Cohen, declare as follows:

1. I am a resident of the State of California and currently reside in Santa Maria, California. I am a named Defendant in this lawsuit. I make this declaration in support of Defendants' Opposition to Plaintiff's Motion for Leave to File Motion for Reconsideration of Order Vacating Arrest; Opposition to Emergency Application for Stay of Court's Order Vacating Arrest of the Vessel and Clarification of the Order. The facts set forth in this declaration are personally known to me to be true and, if called as a witness, I could and would testify to the

1 following:

2 2. On August 16, 2007, I was present for the Rule E(4)(f) hearing before this Court  
3 after which the Court ordered the release of my fishing vessel, the F/V POINT LOMA (the  
4 "Order"). Pursuant to the Order, the Court ordered me to not sell, pledge, hypothecate, diminish  
5 the value of, or take the vessel outside the jurisdiction. At the time, it was my understanding that  
6 the jurisdiction of the Court included the port of San Francisco, California out of which the vessel  
7 fishes and the federal waters of the Exclusive Economic Zone (EEZ) out to 200 nautical miles off  
8 California. I now understand that, as a technical matter, the jurisdiction of the Court is limited to  
9 three miles. If my vessel's operation is limited to three miles, that is, within the State of  
10 California, it cannot fish because it only has the permits for fishing in the federal EEZ.

11 3. In addition, the Court ordered me to keep the F/V POINT LOMA fully insured.  
12 We have filed a copy of the insurance coverage information with the Court. In open court, and in  
13 the presence of Plaintiff, I promised to abide by the terms of the Order. In addition, I now promise  
14 that, if the vessel should be damaged or lost, I will cause the insurance proceeds to be filed in an  
15 appropriate manner with the Court.

16 4. I have no intention of violating the Order. My only intention is to reclaim the F/V  
17 POINT LOMA and resume my fishing business activities. I have been unable to reclaim the  
18 vessel since the entry of the Order. The captain is ready to take over the boat and begin fishing  
19 again. The vessel is licensed to fish in the federal waters of the EEZ and it has been, and will  
20 continue to be, operating from San Francisco, California. As of August 22, 2007, I have left  
21 several messages with the U.S. Marshal inquiring when it will release the boat from the custodian  
22 but have not heard anything back even though I understand the U.S. Marshal has received a copy  
23 of this Court's order of release.

24 5. There is no risk that the F/V POINT LOMA will be beyond the ability of the Court  
25 to order me to return it, at any time, to the port of San Francisco, California. I hereby agree to  
26 abide by any order of this Court to return the vessel to the port of San Francisco. Not only have I  
27 been engaged in the fisheries business in California for over 40 years, but the captain of the vessel  
28

